

Attorney Docket: UNSN.2105.0003
Application Serial No. 10/523,797

Remarks

Upon entry of the foregoing Amendment, claims 21-40 are pending in the application. Claims 21-32 and 40 are under consideration. Claims 33-39 are withdrawn from consideration. Claim 21 has been amended. No new matter is being presented. In view of the following remarks, reconsideration and allowance of all the pending claims are requested.

The Next Office Action Should Not Be a Final Office Action

On February 22, 2010, the Office issued an Advisory Action stating that the Amendment After Final Office Action filed by Applicant on February 11, 2010, would not be entered because the claim amendments necessitated a further search and consideration of the art.

On March 11, 2010, the Applicant filed a Request for Continued Examination (RCE) with an Amendment Accompanying RCE that was intended to be the same as the Amendment After Final Office Action of February 11, 2010. However, due to an inadvertent error, as recognized by the Office in item 2 on page 2 of the Office Action of March 24, 2010, the Amendment Accompanying RCE of March 11, 2010, is actually the same as the Amendment Submitted with RCE of May 14, 2009. Accordingly, in the Office Action of March 24, 2010, the Office merely repeated the rejections set forth in the Office Action of May 28, 2009, although the Office did include a new ground of rejection under 35 USC 101 in the Office Action of March 24, 2010.

On April 29, 2010, the undersigned attorney, Randall S. Svihla, discussed this matter by telephone with the Examiner's supervisor, Supervisory Patent Examiner Kim Vu. The attorney stated that in his opinion, the Examiner should have issued a Notice of Non-Compliant Amendment since amended claim 21 in the Amendment Accompanying RCE of March 11, 2010, clearly was not an amended version of claim 21 in the Amendment After Final Office Action of February 11, 2010, or claim 21 in the Response to Office Action Dated May 28, 2009, filed on August 27, 2009.

The supervisor stated that the Examiner is not required to issue a Notice of Non-Compliant Amendment if the Examiner can understand the claims, as was the case in this situation. Also, the supervisor stated that the Office discourages the issuance of Notices of Non-Compliant Amendment because they adversely affect pendency.

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The attorney stated that he was concerned that if the applicant files a response to the Office Action of March 24, 2010, that does not convince the Examiner to allow the application, the Examiner might make the next Office Action final. The attorney stated that in his opinion, the appropriate course of action would be for the Examiner to make any such Office Action non-final since the Examiner really didn't have to do much work to issue the Office Action of March 24, 2010, since it was basically a repeat of the Office Action of May 28, 2009.

The supervisor stated that she agreed that it had not been much work for the Examiner to issue the Office Action of March 24, 2010, and that it would be fair for the Examiner not to make the next Office Action final since it was clear from the Examiner's statements in item 2 on page 2 of the Office Action of March 24, 2010, that the Examiner was aware that the Amendment Accompanying RCE of March 11, 2010, was a repeat of the Amendment Submitted with RCE filed on May 14, 2009.

Accordingly, should the Examiner issue another Office Action in response to this Amendment, it is respectfully requested that the Examiner make that Office Action a non-final Office Action pursuant to the supervisor's statement discussed above.

Rejection under 35 USC § 101

Page 4, item 5 of the Office Action dated March 24, 2010, alleges that claims 21-32 and 40 are non-statutory under 35 USC 101 since they are not tied to a particular machine and do not perform a transformation. In particular, the Office states that "[a]n example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps."

However, claim 21 as it was considered in the Office Action of March 24, 2010, recites "displaying a matching board comprising a certain cell and at least one other cell and a reference board comprising a first cell and at least one other cell on a user interface," and it is not seen how such displaying on a user interface could be performed as a purely mental step as apparently alleged by the Office.

Furthermore, independent claim 21 has now been amended to recite "[a] method of inputting a password for authentication in a user authentication system," such that claim 21 is now tied to a particular machine.

For at least the foregoing reasons, it is submitted that claim 21 and claims 22-32 and 40

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depending therefrom do not recite purely mental steps and are now tied to a particular machine, and are therefore statutory under 35 USC 101.

Accordingly, reconsideration and withdrawal of this rejection is earnestly solicited.

Rejection under 35 USC § 102 to Martino

Claims 21-24, 26-32 and 40 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,276,314 to Martino et al. (hereinafter "Martino"). Applicant respectfully requests reconsideration and withdrawal of this rejection for at least the following reasons, and asserts that the Office has not established a *prima facie* case of unpatentability.

Independent Claim 21

Pages 5-6, item 6 of the Office Action dated March 24, 2010, alleges that Martino discloses all the elements as recited in independent claim 21.

However, in view of the above amendments, Applicant asserts that Martino does not disclose or suggest, among other things, "receiving the password from a user matching a symbol within the certain cell of the matching board with a password symbol within the first cell of the reference board, to authenticate the received password, such that the matching board moves to allow the certain cell of the matching board to correspond with the first cell of the reference board in response to the certain cell and the first cell not already being in correspondence with one another, wherein positions of the first cell and the at least one other cell of the reference board are altered and positions of the certain cell and the at least one other cell of the matching board are not altered in response to the certain cell and the first cell not already being in correspondence with one another," as presently recited in amended independent claim 21.

More specifically, FIGS. 3-4 of Martino merely illustrate cells shifting row by row or column or column.

Furthermore, column 3, lines 30-44 and column 5, lines 40-44 of Martino appear limited to describing how each of a plurality of KEY SYMBOLS within an ARRAY must be manipulated (row by row or column by column), in order to type in a user's pin. Then, Martino verifies whether the KEY STATE within the displayed ARRAY matches a KEY STATE definition.

However, none of the above-cited portions of Martino disclose or suggest, "receiving the password from a user matching a symbol within the certain cell of the matching board with a

password symbol within the first cell of the reference board, to authenticate the received password,” as presently recited in amended independent claim 21, for at least the reason that **Martino merely shifts rows or columns having symbols therein to be positioned within a certain predetermined KEY STATE definition**, and does not match symbols of two different cells.

Moreover, Martino does not disclose or suggest “positions of the first cell and the at least one other cell of the reference board are altered and positions of the certain cell and the at least one other cell of the matching board are not altered in response to the certain cell and the first cell not already being in correspondence with one another,” as presently recited in amended independent claim 21, for at least the reason that **Martino does not change positions of cells of a reference board while keeping cells of a matching board the same**.

Accordingly, since Martino does not disclose or suggest all of the elements as presently recited in amended independent claim 21, this claim is allowable over Martino. Thus, Martino cannot be properly used to reject independent claim 21 under 35 U.S.C. §102(b) as submitted in the Office action mailed on March 24, 2010, and withdrawal of this rejection and allowance of this claim are respectfully solicited.

Dependent Claims 22-24, 26-32 and 40

With respect to claims 22-24, 26-32 and 40, in addition to features recited therein, it is respectfully submitted that for at least the reason that claims 22-24, 26-32 and 40 depend from independent claim 21, which is allowable for at least the reasons provided above, and therefore contain each of the features as recited in independent claim 21, dependent claims 22-24, 26-32 and 40 are also allowable, and withdrawal of this rejection and allowance of these claims are respectfully solicited.

Rejection under 35 USC § 102 to Cheol-Shin

Claim 21 has been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2002/0129269 to Cheol-Shin et al. (hereinafter “Cheol-Shin”). Applicant respectfully requests reconsideration and withdrawal of this rejection for at least the following reasons, and asserts that the Office has not established a *prima facie* case of unpatentability.

Page 11, item 7 of the Office Action dated March 24, 2010, alleges that Cheol-Shin

discloses all the elements as recited in independent claim 21.

However, in view of the above amendments, Applicant asserts that Cheol-Shin does not disclose or suggest, among other things, “receiving the password from a user matching a symbol within the certain cell of the matching board with a password symbol within the first cell of the reference board, to authenticate the received password, such that the matching board moves to allow the certain cell of the matching board to correspond with the first cell of the reference board in response to the certain cell and the first cell not already being in correspondence with one another, wherein positions of the first cell and the at least one other cell of the reference board are altered and positions of the certain cell and the at least one other cell of the matching board are not altered in response to the certain cell and the first cell not already being in correspondence with one another,” as presently recited in amended independent claim 21.

More specifically, FIGS. 8A-8B and paragraphs [0085]-[0096] Cheol-Shin appear to be limited to a user selecting a character to act as a pointer to another character. However, only the “display locations of the pointers on the screen” are changed in Cheol-Shin. See paragraph [0091] of Cheol-Shin.

In other words, Cheol-Shin does not disclose or suggest, among other things, “positions of the first cell and the at least one other cell of the reference board are altered and positions of the certain cell and the at least one other cell of the matching board are not altered in response to the certain cell and the first cell not already being in correspondence with one another,” as presently recited in amended independent claim 21, for at least the reason that although the pointers in Cheol-Shin shift locations on the character areas, the characters within the character areas do not change positions. See paragraph [0092] and FIGS. 8A-8B of Cheol-Shin.

Accordingly, since Cheol-Shin does not disclose or suggest all of the elements as presently recited in amended independent claim 21, this claim is allowable over Cheol-Shin. Thus, Cheol-Shin cannot be properly used to reject independent claim 21 under 35 U.S.C. §102(e) as submitted in the Office action mailed on March 24, 2010, and withdrawal of this rejection and allowance of this claim are respectfully solicited.

Rejection under 35 USC § 103 to Martino and Pimpo

Claim 25 is rejected under 35 USC §103(a) as being unpatentable over Martino in view of U.S. Patent No. 6,021,653 to Pimpo. Applicant respectfully traverses the above rejection for at

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least the following reasons, and Applicant submits that the Office's rejection is improper because a *prima facie* case of obviousness has not been established.

With respect to Pimpo, it is submitted that Pimpo does not remedy the deficiencies of Martino, and therefore, with respect to claim 25, it is respectfully submitted that in addition to features recited therein, for at least the reason that claim 25 depends from independent claim 21, which is allowable for at least the reasons provided above, and therefore contain each of the features as recited in independent claim 21, dependent claims 25 is also allowable, and withdrawal of this rejection and allowance of this claim are respectfully solicited.

It is respectfully submitted that alleged reference(s) do not disclose or suggest each and every element of the instant Claims. Accordingly, since all of the features are not taught, disclosed, nor suggested by the reference(s), Applicant respectfully submits that a *prima facie* case of unpatentability has not established. Therefore, allowance and withdrawal of the rejection are respectfully requested

Conclusion

It is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, there being no other objections or rejections, this application is in condition for allowance, and a notice to this effect is earnestly solicited.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: June 16, 2010

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